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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,142	07/15/2003	Karen Hargett Bean	KCC 4911 (K-C 17,719)	8474
321	7590	11/22/2006	EXAMINER	
SENNIGER POWERS ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102				STEPHENS, JACQUELINE F
ART UNIT		PAPER NUMBER		
		3761		

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/620,142	BEAN ET AL.
	Examiner	Art Unit
	Jacqueline F. Stephens	3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 20 July 2006.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 20-43,52-65 and 70 is/are pending in the application.

4a) Of the above claim(s) 28 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 20-27,29-43,52-65 and 70 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/1/06.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments filed 7/20/06 have been fully considered but they are not persuasive. In response to applicant's argument that Hsueh fails to disclose or even suggest fibers of the absorbent member passing through openings in the reinforcing member and being entangled with other fibers of the absorbent member as recited in amended claim 20. Applicant argues Hsueh et al. teaches chemically bonding the macrostructure layer to the substrate layer and does not result in absorbent member fibers passing through the. However, Hsueh teaches the absorbent member 71 and reinforcing member 72 are attached by a variety of chemical, physical, and adhesive agents (col. 22, lines 46-49) including polymer entanglement bonding (col. 23, lines 21-23). Hsueh additionally discloses the absorbent member 71 and reinforcing member 72 are compacted together to improve the contact and interconnection of the absorbent particles and the adjacent layer (col. 36, lines 7-16). Thus, the disclosure of polymer entanglement and compaction to improve interconnection of the layers suggests some degree of fiber entanglement of the layers.

Applicant argues Hsueh does not teach stretching of the reinforcement member. However, Hsueh discloses the components are stretched to form voids. The elastomeric material combined with the absorbent member, having greater stretch than the absorbent member would characteristically gather the absorbent member and form rugosities on the surface of the absorbent member.

As to applicant's argument regarding claim 39, the examiner interprets the limitation of the strands 'crossing over' one another as the strands crossing over the path of another strand. This arrangement is shown in the noncontinuous netting in Figures 26 and 28.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 20-27, 29-43, 51-65, and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsueh et al. USPN 5536264.

As to claims 20-27, Hsueh describes an absorbent structure 42 comprising an absorbent member 71 at least partially made of fibers (col. 9, lines 53-64) and a reinforcing member 72 for maintaining the structural integrity of the absorbent member (col. 20, lines 7-17). The absorbent member 71 has a first axis extending generally lengthwise of the absorbent member and a second axis perpendicular to the first axis extending generally widthwise of the absorbent member (Figures 26-28). The reinforcing member 72 defines generally parallel and non-orthogonal strands as claimed (Figures 26 and 28). Hsueh does not disclose the reinforcing member is embedded in the absorbent composite, but comprises a separate layer of the absorbent composite. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the reinforcing member imbedded in the absorbent composite since forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. Hsueh further discloses the absorbent member 71 and reinforcing member 72 are attached by a variety of chemical, physical, and adhesive agents (col. 22, lines 46-49) including polymer entanglement bonding (col. 23, lines 21-23). Hsueh additionally discloses the absorbent member 71 and reinforcing member 72 are compacted together to improve the contact and interconnection of the absorbent particles and the adjacent layer (col. 36, lines 7-16). Thus, the disclosure of polymer entanglement and compaction to improve interconnection of the layers suggests some degree of fiber entanglement of the layers.

As to claim 29, Hsueh discloses the reinforcing member is stretchable (col.20, lines 42-47 and lines 61-62).

As to claim 30, Hsueh discloses multiple reinforcing members (col. 4, lines 10-15).

As to claim 31, Hsueh discloses an absorbent structure and garment having a topsheet layer 38, a liquid impermeable backsheet 40, the absorbent structure 42 generally disposed between the topsheet and backsheet (Figure 26).

As to claims 32-35, 38, 43, and 70, see the discussion of claim 20, *supra*. Hsueh additionally discloses the reinforcing member comprises an elastomeric material (col. 20, lines 42-47). It would have been obvious to one having ordinary skill in the art to form rugosities on the surface of the absorbent member as Hsueh discloses the components are stretched to form voids, which represent broken connections between the fibers and reinforcing member in the machine direction. The elastomeric material combined with the absorbent member, having greater stretch than the absorbent member would characteristically gather the absorbent member and form rugosities on the surface of the absorbent member. The limitation in claim 34, where the reinforcing member is relaxed from a stretched condition in which connection of the reinforcing member to the absorbent member is made is directed to a process of making the article. "Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a

product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985) (citations omitted). MPEP 2113.

As to claims 36 and 37, Hsueh discloses the basis weight of the absorbent member is less than 1200 grams per square meter and less than 1600 grams per square meter (col. 24, lines 2-10). The basis weight of the layer is constant in a stretched or unstretched state.

As to claims 39-41, see the discussion of claim 20, supra. The examiner interprets the limitation of the strands 'crossing over' one another as the strands crossing over the path of another strand. This arrangement is shown in the noncontinuous netting in Figures 26 and 28.

As to claim 42, Hsueh discloses an absorbent structure and garment having a topsheet layer 38, a liquid impermeable backsheet 40, the absorbent structure 42 generally disposed between the topsheet and backsheet (Figure 26).

As to claims 51-53, 57-59, 61, and 62, see the discussion of claim 20, supra. Hsueh additionally discloses the absorbent structure can be manufactured in a wide

variety of shapes and sizes including an hourglass shape, which has a non-uniform transverse width (col. 54, lines 43-47 and line 67; Figures 26 and 28). To provide the claimed ratio of widths is within the level of one of ordinary skill in the art where the general condition of the hourglass shape is disclosed by the prior art.

As to claim 54, Hsueh discloses the noncontinuous composite is stretched to form voids (col. 40, lines 48-52).

As to claims 55 and 56, Hsueh does not disclose the second narrower portion has an unstretched reinforcing member. However, Hsueh does teach the wider portions have greater stretch and wider void spaces as compared to the narrower portion. It would have been obvious to one having ordinary skill in the art to leave the narrower portion unstretched or substantially unstretched to conform to the shape of the absorbent composite (col. 41, lines 15-46).

As to claim 63, Hsueh discloses multiple reinforcing members (col. 4, lines 10-15).

As to claim 64, Hsueh discloses an absorbent structure and garment having a topsheet layer 38, a liquid impermeable backsheet 40, the absorbent structure 42 generally disposed between the topsheet and backsheet (Figure 26).

As to claim 65, see the discussion of claim 51, *supra*.

***Conclusion***

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F. Stephens whose telephone number is (571) 272-4937. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jacqueline F Stephens  
Primary Examiner  
Art Unit 3761

October 2, 2006